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Unwell NHS worker wrongfully ousted by Medway Maritime Hospital in Gillingham, tribunal finds

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A hospital trust wrongfully ousted an under-pressure project manager from her role after implying she was incompetent and "not up to the challenge".

Employment tribunal judge Daniel Dyal ruled Medway NHS Foundation Trust constructively dismissed Rosemary Bonney, and that former bosses gave "factually untrue" evidence.



Mrs Bonney worked at Medway Maritime Hospital in Gillingham

Rosemary Bonney joined Medway Maritime Hospital in **Gillingham** in April 2019 as a project manager, initially in acute medicine.

At this time the trust had just come out of special measures but was still operating in a state of "general chaos" and "partial dysfunction", the tribunal heard. ogoldentree.com | Sponsored

This led to mistakes and confusion in the role that Mrs Bonney was told she was appointed to and asked to perform.

Her claim for constructive wrongful dismissal against former bosses was upheld at a hearing held in London last month but separate claims for race discrimination and a redundancy payment were dismissed.

Constructive dismissal is when you're forced to leave your job against your will because of your employer's conduct.

"We would like to offer our sincere apologies to Mrs Bonney for the circumstances which led to this case being heard."

The trust has since accepted the findings and apologised to Mrs Bonney.

It comes after a merry-go-round of roles were initially offered to the claimant at interview who joined the hospital on April 15, 2019.

In her evidence to the tribunal, Mrs Bonney said she was relaxed about which role she undertook but was more pleased to be working in acute medicine rather than therapies and older persons (TOPs) as it would help her career development.

But in September 2019 a decision was taken to swap her with another staff member in the TOPs team.

Douglas McLaren, formerly general manager for acute and emergency medicine, said he felt Mrs Bonney was not "operationally strong enough for the coming challenges" and the fast-paced nature of the department.



The tribunal said the trust, then just out of special measures, was operating in a state of "general chaos" and "partial dysfunction"

These included the winter pressures, imminent scrutiny from NHS England and a **CQC inspection in December 2019**.

Mrs Bonney was "stunned and extremely upset" by the unexpected criticism of her performance, the tribunal heard.

She sought clarification over this but the former health boss did not give any specific examples other than her handling of work rotas.

The tribunal found no evidence of performance issues to warrant the criticism.

On September 12, she raised her concerns with Kevin Cairney, then director of operations for unplanned and integrated care.

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He apologised to her and said Mr McLaren "had not conveyed the intended sentiment correctly", adding it was just a proposal and she did not have to move if she was "up for the challenge".



Medway Maritime Hospital's main entrance

But then just a day later Harvey McEnroe, former chief operating officer at the trust, told Mrs Bonney her skills were the right fit for another role in Transformation and Digital.

Mrs Bonney was formally offered the job but it was "ripped away" shortly after HR caught wind and "pulled the plug".

On October 1, the project manager was signed off work with stress and anxiety and remained unwell until she resigned over a year later in December 2020.

The tribunal hearing **found there were several breaches** of the implied term of trust and confidence.

Employment Judge Daniel Dyal said the way in which Mrs Bonney was treated "came as a bolt from the blue" and she was "leaned on" to switch roles.

He said the language used by her former employer was "extremely upsetting" and implied, contrary to any evidence, she was "not competent to do her own job".

Evidence provided to the grievance investigator by Mr McEnroe and Jack Tabner, who then headed up the Transformation and Digital team, was also found to be "factually untrue".



Jayne Black, the new chief executive of Medway NHS Foundation Trust

The judge concluded: "We are satisfied that the claimant resigned in response to the above breaches and that the grievance appeal outcome was, factually, the final straw that caused her to resign.

He added: "In any event, the later repudiatory breaches came to the claimant's knowledge in September 2020 when the grievance investigation report and outcome were sent to her.

"There was then only a relatively short period of around three months until her resignation. During that time she remained off sick and was busy appealing the grievance.

"There certainly was not any affirmation of the contract between September and December 2020."

Jayne Black, chief executive for Medway NHS Foundation Trust, said: "We fully accept the findings of the employment tribunal and would like to offer our sincere apologies to Mrs Bonney for the circumstances which led to this case being heard."

Following the tribunal's judgement, both parties will seek to agree a remedy and if not, a further hearing will take place at a later date.